

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NICK’S GARAGE, INC.,

Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY; NATIONAL CONTINENTAL
INSURANCE COMPANY; PROGRESSIVE
ADVANCED INSURANCE COMPANY;
PROGRESSIVE DIRECT INSURANCE
COMPANY; PROGRESSIVE MAX
INSURANCE COMPANY; PROGRESSIVE
NORTHERN INSURANCE COMPANY
PROGRESSIVE PREFERRED INSURANCE
COMPANY; and PROGRESSIVE SPECIALTY
INSURANCE COMPANY,

Defendants.

Civil Action No.
5:12-cv-00777-MAD-DEP

**NOTICE OF MOTION TO EXCLUDE THE EXPERT REPORT AND
PROPOSED TESTIMONY OF FREDERIC B. JENNINGS JR., Ph.D.**

PLEASE TAKE NOTICE that, Defendants Progressive Casualty Insurance Company, National Continental Insurance Company, Progressive Advanced Insurance Company, Progressive Direct Insurance Company, Progressive Max Insurance Company, Progressive Northern Insurance Company, Progressive Preferred Insurance Company, and Progressive Specialty Insurance Company (“Defendants” or “Progressive”), by and through counsel, will move this Court before the Honorable Mae A. D’Agostino at the James T. Foley United States Courthouse located at 445 Broadway, Albany, New York 12207, on the 20th day of March, 2018, at 10:00 a.m., or as soon thereafter as counsel may be heard, for an Order pursuant to Federal Rules

of Evidence 702, precluding the expert report and proposed testimony of Plaintiff's expert witness Frederic B. Jennings Jr., Ph.D.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 7.1(b)(1) of the United States District Court for the Northern District of New York, opposition papers, if any, must be filed with the Court and served on the undersigned counsel no later than seventeen (17) days prior to the return date of this motion.

Dated: New York, New York
February 12, 2018

Respectfully submitted,

/s/ Michael R. Nelson

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Attorneys for Defendants

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Progressive Advanced Insurance Company,

Progressive Direct Insurance Company,

Progressive Max Insurance Company,

Progressive Northern Insurance Company,

Progressive Preferred Insurance Company, and

Progressive Specialty Insurance Company.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Motion was electronically filed with the Clerk of the District Court using the CM/ECF system, which will send notification of such filing to all attorneys of record, on this 12th day of February, 2018.

/s/ Michael R. Nelson